

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

WALTER WELLS, JR.

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:18-cv-00096-CWR-FKB

**L-3 COMMUNICATIONS VERTEX
AEROSPACE LLC, AND JOHN AND
JANE DOES 1-5**

DEFENDANT

**DEFENDANT L-3 COMMUNICATIONS VERTEX
AEROSPACE, LLC'S RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION FOR EXTENSION OF
DISCOVERY DEADLINE AND MOTION TO STAY THE
MOTIONS DEADLINE**

COMES NOW Defendant L-3 Communications Vertex Aerospace, LLC, (referred to as "Defendant" or "L-3"), by and through its undersigned counsel, and respectfully submits this Response in opposition to Plaintiff's motion to extend the discovery deadline in this matter and requests the motions deadline be stayed pending a ruling on Plaintiff's motion. In support of its Response, L-3 would show unto the Court as follows:

1. Plaintiff Walter Wells, Jr. filed his Complaint against L-3 on February 14, 2018. Doc. No. 1.
2. On August 13, 2018, a Case Management Order was entered setting the discovery deadline for February 19, 2019 and the motions deadline for March 5, 2019. *See* Doc. No. 10. The pretrial conference is set for July 12, 2019, and a trial of this matter is set for a two week trial calendar beginning August 5, 2019. *Id.*
3. On February 19, 2019, the discovery period in this matter closed. *Id.*
4. On February 27, 2019, Defendant filed its unopposed motion to extend the motions deadline in this matter. *See* Doc. No. 22. On February 28, 2019, the Court granted said

motion and extended the motions deadline to March 19, 2019. *See* Text-Only Order Dated February 28, 2019.

5. On March 7, 2019, Plaintiff filed his motion to extend the discovery deadline. Plaintiff's motion stated that Plaintiff's counsel has been ill and under medical advisement, and requested that the Court re-open discovery so that Plaintiff may conduct depositions. *See* Doc. No. 23.

6. Under the local rules of the Southern District of Mississippi, "[d]iscovery motions must be filed 'sufficiently in advance of the discovery deadline to allow response to the motion, ruling by the court and time to effectuate the court's order before the discovery deadline.'" *Gueniot-Kornegay v. Blitz U.S.A., Inc.*, 2013 WL 160259, *1 (S.D. Miss. January 15, 2013) (citing L.U. Civ. R. 7(b)(2)(B)).

7. Plaintiff's motion, filed after the close of discovery, is untimely and should be denied. *Id.* Additionally, while Defendant's counsel does not intend to make light of any illness Plaintiff's counsel is experiencing and routinely works with opposing attorneys with respect to extending deadlines, this is the first time Plaintiff's counsel has made Defendant aware of any illness or any medical advisement. As recently as February 6, 2019, Defendant deposed Plaintiff and Plaintiff's counsel attended the deposition, yet there was no mention of any illness or medical advisement. *See* Doc. No. 14. Plaintiff has deposed no one in this matter, and waited until the day before the expiration of discovery to propound written discovery. *See* Doc. Nos. 20-21. Plaintiff has not shown good cause as to why discovery should be re-opened and should not be given an additional opportunity to conduct discovery.

8. Further, Plaintiff's motion does not state a proposed date to which the discovery deadline should be extended. Any extension would require a continuance of the trial date set for August 5, 2019.

9. Finally, the motions deadline currently is March 19, 2019. Because Defendant would suffer severe prejudice if it filed a dispositive motion and then Plaintiff was allowed to conduct additional discovery, Defendant requests the motions deadline be stayed pending the Court's ruling on Plaintiff's instant motion and a new motions deadline ordered by the Court once such ruling is made.

10. Given the nature of this Response, L-3 respectfully requests that the requirement of a separate memorandum in support be waived. *See* L.U.Civ.R. 7(b)(4).

WHEREFORE, PREMISES CONSIDERED, Defendant L-3 Communications Vertex Aerospace, LLC respectfully requests the motions deadline be stayed in this matter pending a ruling on Plaintiff's motion to extend discovery, and requests that said motion be denied.

Dated: March 13, 2019.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/H. David Clark, III

LaToya C. Merritt, MB #100054
H. David Clark, III, MB #104165
4270 I-55 North
Jackson, Mississippi 39211-6391
Post Office Box 16114
Jackson, Mississippi 39236-6114
Telephone: 601-352-2300
Telecopier: 601-360-9777
Email: merrittl@phelps.com
clarkt@phelps.com

**ATTORNEYS FOR DEFENDANT
L-3 COMMUNICATIONS VERTEX
AEROSPACE, LLC**

CERTIFICATE OF SERVICE

I, H. David Clark, III, do hereby certify that I have this day filed the foregoing *RESPONSE* with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Ali Muhammad Shamsiddeen, Esq.
LAW OFFICE OF ALI M. SHAMSIDEEN
5888 Ridgewood Road, Suite E
Jackson MS 39211
(601) 965-5515
attorneyshamsiddeen@yahoo.com

ATTORNEY FOR PLAINTIFF

SO CERTIFIED, this the 13th day of March, 2019.

/s/H. David Clark, III
H. David Clark, III